

Appl. No. : 10/621,740  
Filed : July 17, 2003

REMARKS

This is in response to the Office Action mailed January 24, 2008. Claims 1-5 and 16 remain pending. Applicant thanks the Examiner for the careful consideration of Applicant's previous response.

By this new Office Action, the Examiner now indicated the rejection of Claims 1, 3-5 and 16 under 35 U.S.C. § 103(a) as being unpatentable over Mattice (USPN 6,454,649) in view of Zehr (USPN 3,895,849), and rejected Claim 2 as being unpatentable over that combination in further view of Yokota (USPN 6,962,528). The Examiner asserts that Mattice discloses a gaming cabinet substantially as claimed, but lacks a teaching of such a cabinet including a door shock. The Examiner asserts that Zehr discloses a cabinet that utilizes a hydraulic check, and that it would be obvious to one of ordinary skill in the art to modify the game machine cabinet of Mattice with Zehr, to incorporate the hydraulic check.

Applicant disagrees. The Court of Appeals for the Federal Circuit has cautioned against the selection of prior art using hindsight, where the art is selected based upon the solution rather than the problem to be solved. Monarch Knitting Machinery Corp. v. Fukuhara Indus. & Trading Co., 139 F.3d. 1009 (Fed. Cir. 1998).

Zehr discloses an automatic door closure system. As indicated, the purpose of the system is to close doors of a flammable storage cabinet to ensure that the flammables in the cabinet are not exposed. (Zehr at col. 1, lines 9-12). Preferably, the doors are configured to close over a period of time, providing a sufficient time to permit removal of the stored flammables in the cabinet. (Zehr at col. 1, lines 12-15).

**Appl. No.** : 10/621,740  
**Filed** : July 17, 2003

In order to achieve this goal, Zehr discloses a closing mechanism that includes a combination of links, hydraulic checks (20) and springs (29). Most importantly, as disclosed in Zehr:

As the doors close, say about 30°, the component of force exerted by spring 29 on the hydraulic check 20 increases so that the door closes more rapidly. The rate of closing gradually increases to that the door closes at its maximum speed when it approaches the closed position. Preferably the rate of closing is such that the doors remain open a sufficient width to permit removal of cans containing inflammables from the cabinet for a period of 2 to 3 minutes. Should this time be inadequate, only a slight manual opening force need be applied to the doors to reopen the same to the fully opened position.

(Zehr at col. 2, lines 40-51).

Thus, Zehr actually discloses a combination of links, hydraulic checks and springs configured to *increase* the speed of closing of the door so that the door reaches a maximum speed at closing and slams shut (thus securing the flammables).

This purpose is entirely different than the problem to be solved by the present invention. As indicated, a problem solved by the invention is damage cause by the door of the cabinet being closed with such speed that it impacts or slams into the housing. (See Application at ¶[0013]). A person of ordinarily skill in the art who is looking to solve this problem would *not* look to Zehr, because Zehr discloses a combination of elements that exacerbate the problem to be solved. In particular, if the teaching of Zehr is applied to the cabinet of Mattice, the door of the gaming cabinet is accelerated towards the cabinet so that it slams shut, resulting in the very harm that the present invention is designed to prevent.

In order to further clarify this distinction, Applicant has amended Claim 1. Applicant asserts that because the combination of Zehr and Mattice fails, independent Claim 1 and Claims 2-5 and 16 dependent thereon are in a condition for allowance (Applicant has not addressed the subsidiary

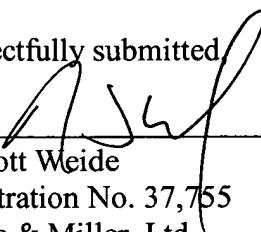
**Appl. No.** : 10/621,740  
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rejections of the dependent claims in light of their dependence upon Claim 1, which Applicant asserts is patentable).

If any matters remain outstanding, the Examiner is invited to contact the undersigned by telephone.

Dated: May 23, 2008 By:

Respectfully submitted,

  
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